

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 414 of 1998

to

APPEAL FROM ORDER No 418 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

PRAKASHBHAI NATWARLAL TAILOR

Versus

STATE OF GUJARAT

Appearance:

MR JB PARDIWALA for Petitioner
AGP for Respondent No. 1
RULE SERVED for Respondent No. 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/03/2000

ORAL JUDGEMENT

1. These appeals are directed against the judgments and orders passed by the learned Civil Judge (S.D.) Valsad below Ex. 5 in Special Civil Suits No. 10/98, 13/98, 12/98, 30/98 and 42/98 respectively, wherein the injunction as prayed for was refused and Ex. 5 application was rejected. It is the case of the appellants that the authorities concerned namely the respondents are trying to forcibly dispossess them from the land in question on which the appellants have constructed cabin and are carrying on business since last couple of years. On perusal of the impugned orders, the pleadings and the evidence on record, prima facie, it appears that the appellants cannot be said to be trespassers or encroachers on the land in question. It appears that the appellants are in possession of the said land since last couple of years within the full knowledge of the respondents. On the other hand, it is submitted by Shri S.T.Mehta, learned AGP, on behalf of the respondents no. 1 and 2 that the land in question is needed for public purpose, namely for construction of police station at Vapi. It is also submitted that as the land is required for construction of police station, public purpose must be given precedence as against the individual rights and interest of the appellants. In the peculiar facts and circumstances of the case, more particularly in view of the fact that the appellants are in possession since last couple of years and their possession as such cannot be said to be unlawful and also keeping in mind the public purpose involved, it would be fit and proper to dispose of these appeals by giving suitable directions as under:-

- (1) Authority concerned is directed to provide suitable alternative accommodation to the appellants anywhere at any place in the town of Vapi or Vapi GIDC (excluding the notified area). No sooner alternative accommodation is provided, the appellants shall hand over vacant and peaceful possession of the land in question and shall demolish the structure at their own costs. The appellants shall also tender an undertaking in writing in this Court to the effect that no sooner they are provided with any alternative accommodation, they shall hand over vacant and peaceful possession of the land.
- (2) Till alternative accommodation is not provided, the respondent shall not forcibly evict or dispossess the appellants.
- (3) The appellants shall also withdraw the Special

Civil Suits No.10/98, 13/98,12/98, 30/98 and
42/98 respectively, which are pending in the
Court of learned Civil Judge (SD) Valsad.

In view of the above directions, these appeals
accordingly stand disposed of with no orders on Civil
Applications.

sonar/-